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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>OCT 1 2007</p> <p>on _____ / / _____</p> <p>Signature _____ / / _____</p> <p>Typed or printed name KHAI HEE KWAN</p>		
<p>Application Number 09/9232311</p> <p>First Named Inventor KHAI HEE KWAN</p> <p>Art Unit 3691</p>		<p>Filed Aug 7 2001</p> <p>Examiner Olabode Akintola</p>

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

applicant/inventor.

assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

attorney or agent of record.

Registration number _____

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____



Signature

KHAI HEE KWAN

Typed or printed name

60-89-213117

Telephone number

Oct 1 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.



*Total of **1** forms are submitted.

and 2 pages of attachment

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Application number: 09/923,311

Applicant: Khai Hee Kwan

Title: A computer network method for conducting payment over a network by debiting and crediting utilities accounts

Art Unit: 3691

Examiner: Olabode Akintola.

Remarks for Pre-Appeal Brief Conference - APPLICATION 09/923,311

In Final Rejection Letter mailed July 30-2007, the examiner provides at page 2, Claims 31,37,51 are rejected under 35 USC 112 para 2 “as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.” The examiner further ask the applicant to clarify the Claims 31, 37, 51 reciting “said utility account” in line 13. The examiner said and the applicant quotes “It is not clear whose utility account this refers to. Is it the payer’s or payee’s or both.” Similar clarification is also sought for the term “utility accounts having account identifiers” at line 3 of Claim 31.

The applicant has responded by way of response after final dated Sept 11-2007 (herein response after final) and stated for the record that “said utility account” in line 13 of Claim 31, is referring to BOTH (ie electing one of the case suggested by the examiner). Given this is already answered in the affirmative, the applicant is understandably puzzle as to the Advisory Action dated Sept 18-2007 which maintains that Claims 31, 37 and 51 are not clear and 35 USC 112 Para 2 is upheld. It appears that the examiner now provided additional information which was previously unstated and the applicant quotes “ Examiner notes that in Line 12 of claim 31, “said payee’s utility account” and “said payer’s utility account” are separate accounts (two accounts), while line 13 simply refers to “said utility account” (single account). It is not clear which of the individual accounts (payee or payer) that this refers to”. (Last Para of Continuation of 11). Apparently as the applicant understands the basis here is that because “said utility account” is a singular and the assertion by the applicant that it refers to “both” is contradictory unless the same being plural hence causing claim 31 to be unclear. If the cause here is merely one of singular and plural, then the appropriate measure is to advise the applicant at the outset which could be rectified by adding “both” as “whereby BOTH said utility account...”

The applicant respectfully submits that whether it is a singular or plural does not make a prima facie case for 35 USC 112 Para 2, especially when no reasons where provided in the Final Rejection Letter. Furthermore, the preamble of the Claim 31 also states “....crediting and debiting utility accounts”. This make it clear that any transfer between

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payer and payee must be via crediting /debiting utility accounts explicitly stating that both accounts have to be utility accounts and not otherwise. (also see last part of Claim 31- ...said payment amount is transferable between different and same accounts within said group.) A claim has to be read as a whole.

As the examiner did not pursue the clarity issue for “utility accounts having account identifiers” in Advisory Action, the applicant presumes that this is abandoned.

It is also pertinent to note that MPEP 2173.02 provides “However, if the language used by applicant satisfies the statutory requirements of 35 U.S.C. 112, second paragraph, but the examiner merely wants the applicant to improve the clarity or precision of the language used, the claim must not be rejected under 35 U.S.C. 112, second paragraph, rather, the examiner should suggest improved language to the applicant.” (underlined mine) Therefore, it is clear by evidence so far, the examiner has mischaracterized this rejection as a 35 USC 112 Para 2 when in essence it is really a case for clarification which the applicant has already submitted unreservedly. The applicant prays the conference members to reverse this rejection and make an order for allowance as 35 USC 112 Para 2 is the only rejection on record.

Yours truly,



Khai H Kwan

023336

30 Sept 2007